IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3769 of 1980

with

SPECIAL CIVIL APPLICATION No 6399 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ATIC INDUSTRIAL LTD

Versus

HARIA GRAM PANCHAYAT

Appearance:
MR M.R. BHATT for MR R.P. BHATT for Petitioners in both the matters.
MR SN SHELAT for Respondent No.1 in both the matters.
MS HANSA PUNANI, ld.AGP for respondent no.3 in both the matters.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/10/2001

COMMON ORAL JUDGEMENT

The petitioner no.1-Company, Atic Industries Ltd., Valsad, in Special Civil Application No.3769 of 1980 has prayed for issuance of appropriate writ, direction or order quashing and setting aside the resolution dated 28.10.1977 of Haria Gram Panchayat levying building tax, the order dated 31.3.1980 made by the appellate Committee, District Panchayat, Valsad and the order dated 24.10.1980 made by the Additional Development Commissioner, Gujarat State, Gandhinagar. The petitioner has also prayed for appropriate direction against the Panchayat not to levy and/or collect any building tax in respect of the buildings constructed for generating sets and boilers in pursuance of the resolution dated 28.10.1977, the subject matter of challenge or otherwise for a period of five years from December 1977, the date on which the generation of power and steam was started on the generating sets and boilers installed by the petitioner no.1 Company. According to the petitioners, they are entitled to exemption as claimed in respect of the buildings in question for a period of five years from December 1977.

2. It may be stated that against the resolution dated 28.10.1977 of Haria Gram Panchayat, the petitioners preferred appeal before the appellate Committee of the District Panchayat. The appellate Committee rejected the appeal against which, the petitioners preferred revision application before the Development Commissioner and the same was also rejected. As stated above, the petitioners have challenged all the decisions in the petition, being Special Civil Application No. 3769 of 1980. This Court admitted that petition on 30th December 1980 and also granted ad-interim relief as prayed for in para 29(E) of the petition restraining the respondent Haria Gram Panchayat from levying and/or collecting building tax in pursuance to the bills for the assessment years 1978-79, 1979-80 and 1980-81. The Panchayat was also restrained and prohibited from issuing any bill or demand for further period till the expiry of period of five years exemption as claimed in the petition till the hearing and final disposal of the petition.

3. It appears that despite the interim orders of this Court, the respondent Haria Gram Panchayat issued bills for the period of 1981-82, 1982-83 and 1983-84 demanding house tax of the past years and tax covered under the said bills. The petitioners have, therefore, filed petition being Special Civil Application No.6399 of

1984 challenging the bills for the aforesaid period. Since both the petitions are against the decision of the respondent Haria Panchayat, they are being heard together and are disposed of by this common judgment and order.

4. It may be stated that the Govt. of Gujarat issued an order dated 25th May 1998 under Section 7A of the Land Revenue Code transferring the lands mentioned therein from the revenue limits of Haria village to the revenue limits of Atul village. The lands transferred under the said order dated 25th May 1978 were directed to be deleted from village records of Haria village and were to be added to the Atul village records. After completing the necessary enquiry and consulting all Panchayats concerned, the Government of Gujarat issued a notification dated 14th July 1981 under Section 9(2) of the Gujarat Panchayats Act, 1961 transferring 34 acres and 8 gunthas of lands in the limits of Atul Panchayat after deducting the same from the limits of Haria Gram Panchayat. From the Schedule to the said order dated 14-18th July 1981 it appears that the lands of Survey Number in question over which the houses are situated for which the tax is sought to be collected, are transferred to Atul Gram Panchayat from 18th July 1981.

5. The order of the State Government under Section 7A was challenged by the respondent Haria Gram Panchayat in writ petition before this Court, being Special Civil Application No.1380 of 1978 and the notification issued under Section 9(2) was also challenged in Special Civil Application No.3714 of 1981 by the said Gram Panchayat.

6. Learned Counsel appearing for the petitioners submitted that the aforesaid two petitions filed by the Haria Gram Panchayat were heard together and this Court by its order dated 8th July 1985 rejected both the said petitions. In its aforesaid order dated 8th July 1985, this Court has observed that, when those petitions came up for final hearing on 27th August 1984, on 28th August 1984, the Government was directed to determine the amount of compensation payable by the respondent no.1-Company to the petitioner Panchayat. The Government has ultimately determined the amount of compensation to be paid by the respondent no.1-Company to the petitioner-Panchayat. The order passed by the Deputy Secretary (Lands), Revenue Department, Government of Gujarat, dated 9th November 1984 was placed on record. It appears that the State Government determined the amount of compensation to be paid by the respondent-Company to the petitioner Panchayat as under:

(1) Rs.1.50 lakhs amount of compensation in
revenue loss
Rs.12,675/- capitalised
Rs.12 times.

(2) Rs.0.40 lakhs the amount of interest
from 25.5.1978 to
4.7.1981 i.e. the date
of payment by the
respondent Atul Company.

(3) Rs.1.05 lakhs rise in cost during the
period in question i.e.
25.5.1978 till to-date.

Rs.2.95 lakhs Total

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Respondent Atul Company has already credited Rs.2.50 lakhs in the P.L.A. of the District Development Officer, out of which Rs.0.50 lakhs is towards arrears of tax and Rs.2.00 lakhs is towards compensation. As narrated above, I have decided Rs.2.95 lakhs as amount of compensation and hence direct the respondent Atul Company to credit Rs.0.95 lakhs in the P.L.A. of the District Development Officer, Valsad, and direct the District Development Officer, Valsad, to pay the entire amount to the petitioner Haria Village Panchayat.

Learned Single Judge in the said decision has observed that, after the report having been received from the Government, the matter has again been placed for final hearing before him. None of the parties to the petition has raised any contention with regard to the quantum of compensation determined by the Government. It is not the contention of the petitioner-Panchayat that the quantum of compensation determined by the Government is in any way inadequate or improper. The respondent Company has also not raised any contention to the effect that the amount of compensation determined by the Government is either excessive or improper. In this view of the matter, learned Single Judge did not go into the details regarding the quantum of compensation determined by the Government.

7. In view of the fact that the Government has already determined the liability of the petitioners to the extent of Rs.2.95 lakhs to be paid to the respondent

Panchayat, I am of the opinion that no grievance subsists. Learned Counsel appearing for the parties have therefore submitted that in view of the above decision rendered by this Court in both the aforesaid petitions filed by the respondent Gram Panchayat, now no dispute survives and both the present petitions have become infructuous. Both these petitions are rejected as having become infructuous. Rule in each petition stands discharged. Ad-interim relief stands vacated. No order as to costs.

(K.R. Vyas, J.)

Sreeram.